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**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HORATIO DEMARIOUS SMITH,

Plaintiff - Appellant,

v.

CHUCK DAMON; et al.,

Defendants - Appellees.

No. 05-16512

D.C. No. CV-02-00151-ECR

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Nevada
Edward C. Reed, District Judge, Presiding

Submitted April 10, 2006^{**}

Before: KOZINSKI, RYMER and PAEZ, Circuit Judges.

A review of the record, the response to the court's December 8, 2006 order to show cause and the opening brief indicates that the questions raised in this

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

Accordingly, we summarily affirm the district court's judgment.

All pending motions are denied as moot.

AFFIRMED.